

COMMITTEE REPORT

MR. PRESIDENT:

The Senate Committee on Criminal, Civil and Public Policy, to which was referred House Bill No. 1849, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 1, line 8, delete "section," and insert "section and except as
- 2 **provided in subsections (c) and (d),".**
- 3 Page 1, line 9, delete "involving" and insert "**of**".
- 4 Page 1, line 10, delete "IC 5-26.5-1-3)" and insert
- 5 "**IC 35-41-1-6.3)**".
- 6 Page 1, between lines 11 and 12, begin a new paragraph and insert:
- 7 "**(c) Not earlier than five (5) years after the date of conviction,**
- 8 **a person who has been convicted of a crime of domestic violence (as**
- 9 **defined in IC 35-41-1-6.3) may petition the court for restoration of**
- 10 **the person's right to possess a firearm. In determining whether to**
- 11 **restore the person's right to possess a firearm, the court shall**
- 12 **consider the following factors:**
- 13 **(1) Whether the person has been subject to:**
- 14 **(A) a protective order;**
- 15 **(B) a no contact order;**
- 16 **(C) a workplace violence restraining order; or**
- 17 **(D) any other court order that prohibits the person from**
- 18 **possessing a firearm.**
- 19 **(2) Whether the person has successfully completed a**
- 20 **substance abuse program, if applicable.**
- 21 **(3) Whether the person has successfully completed a**

parenting class, if applicable.

(4) Whether the person still presents a threat to the victim of the crime.

(5) Whether there is any other reason why the person should not possess a firearm.

(d) The court may condition the restoration of a person's right to possess a firearm upon the person's completion of specified conditions.

(e) If the court denies a petition for restoration of the right to possess a firearm, the person may not file a second or subsequent petition until one (1) year has elapsed.

(f) A person has not been convicted of a crime of domestic violence for purposes of subsection (c) if the conviction has been reversed, vacated, set aside, or expunged or if the person has been pardoned."

Page 1, line 12, after "IC 33-4-5-7" insert ", AS AMENDED BY SEA 257-2003, SECTION 79,".

Page 2, line 10, delete "IC 10-2-1-5;" and insert "IC 10-16-2-5;".

Page 2, line 12, delete "IC 10-2-8;" and insert "IC 10-16-8;".

Page 3, line 15, delete "section," and insert "section and except as provided in subsections (c) and (d),".

Page 3, line 16, delete "involving" and insert "of".

Page 3, line 17, delete "IC 5-26.5-1-3)" and insert "IC 35-41-1-6.3)".

Page 3, between lines 21 and 22, begin a new paragraph and insert:

"(h) Not earlier than five (5) years after the date of conviction, a person who has been convicted of a crime of domestic violence (as defined in IC 35-41-1-6.3) may petition the court for restoration of the person's right to possess a firearm. In determining whether to restore the person's right to possess a firearm, the court shall consider the following factors:

(1) Whether the person has been subject to:

(A) a protective order;

(B) a no contact order;

(C) a workplace violence restraining order; or

(D) any other court order that prohibits the person from possessing a firearm.

(2) Whether the person has successfully completed a

substance abuse program, if applicable.

(3) Whether the person has successfully completed a parenting class, if applicable.

(4) Whether the person still presents a threat to the victim of the crime.

(5) Whether there is any other reason why the person should not possess a firearm.

(i) The court may condition the restoration of a person's right to possess a firearm upon the person's completion of specified conditions.

(j) If the court denies a petition for restoration of the right to possess a firearm, the person may not file a second or subsequent petition until one (1) year has elapsed.

(k) A person has not been convicted of a crime of domestic violence for purposes of subsection (h) if the conviction has been reversed, vacated, set aside, or expunged or if the person has been pardoned.

SECTION 3. IC 35-41-1-6.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 6.3. "Crime of domestic violence,"** for purposes of IC 3-7-13-5 and IC 33-4-5-7, means an offense or the attempt to commit an offense that:

(1) has as an element the:

(A) use of physical force; or

(B) threatened use of a deadly weapon; and

(2) is committed against a:

(A) current or former spouse, parent, or guardian of the defendant;

(B) person with whom the defendant shared a child in common;

(C) person who was cohabiting with or had cohabited with the defendant as a spouse, parent, or guardian; or

(D) person who was or had been similarly situated to a spouse, parent, or guardian of the defendant."

Page 3, line 29, delete "A" and insert "Unless the person's right to possess a firearm has been restored under IC 3-7-13-5 or IC 33-4-5-7, a".

Page 3, line 35, after "Sec. 6." insert "(a)".

- 1 Page 3, after line 38, begin a new paragraph and insert:
- 2 **"(b) It is a defense to a prosecution under this section that the**
- 3 **person's right to possess a firearm has been restored under**
- 4 **IC 3-7-13-5 or IC 33-4-5-7.**
- 5 SECTION 6. [EFFECTIVE JULY 1, 2003] **IC 35-47-4-6, as added**
- 6 **by this act, applies only to crimes committed after June 30, 2003."**
- 7 Renumber all SECTIONS consecutively.
(Reference is to HB 1849 as printed February 26, 2003.)

and when so amended that said bill do pass.

Committee Vote: Yeas 6, Nays 3.

Long

Chairperson